

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of:	WC Docket No. 02-361
Petition for Declaratory Ruling Filed by AT&T Corporation.	DA 02-3184

**COMMENTS OF THE RURAL IOWA INDEPENDENT
TELEPHONE ASSOCIATION**

AT&T filed a petition for declaratory ruling asking the FCC to find that any voice traffic that travels over the internet using voice over internet protocol (VOIP) at any point in its transmission is not subject to access charges even if it is delivered to a local exchange carrier (LEC) as voice traffic for delivery to an end-user within the exchange. Actually, AT&T appears to be asking for an exemption from access in any instance where the traffic transfers using any sort of packet transmission even over a private network at any time; however, AT&T's petition is a bit vague on this point. (The open question is whether "VOIP telephony services" as used in paragraph 2 of AT&T's conclusion just refer to the protocol used or its method of transmission.)

All of the telephone traffic discussed in AT&T's petition is originated by a LEC customer as standard telephone call before it is delivered to AT&T. All of the telephone traffic discussed in AT&T's petition is ultimately delivered to a different LEC's customer as a standard telephone call. The traffic is delivered either in a standard fashion, using Feature Group D trunks (long distance access toll trunk groups) or using other arrangements under which AT&T attempts to function as an unlimited-use local business customer or as a competitive local exchange carrier, claiming to deliver

local traffic in accordance with a negotiated reciprocal compensation agreement. AT&T raises the issue, what if the interexchange transit uses the internet.

Since AT&T has both the “nation’s largest circuit switched long distance network,” as it states on page 17 of its petition, and “its own common IP backbone,” as it notes on page 18, AT&T can essentially pick what traffic or parts of traffic it routes on its switched network and what traffic it sends in packets using VOIP over the internet. AT&T can send and receive traffic in various locations it determines using its IP gateways and specialized IP infrastructure before converting the traffic. Contrary to AT&T’s underlying implication that it wants to transit traffic more efficiently, the ruling it seeks would allow AT&T to make its routing decisions based solely on the basis of what access payments it would prefer to pay. Presumably, while it further develops its internet infrastructure, it use its internet capacity to bypass its highest access fee charges. Once it has the capacity, it will simply bypass access fees entirely.

The problem with AT&T’s proposal, then is that it has nothing to do with encouraging the development of VOIP, and everything to do with avoiding legitimate access fees. As such, it is simply a variation of issues raised and consolidated into the Intercarrier Compensation Docket, CC Docket No. 01-92, already pending before the FCC.

In addition, AT&T’s petition raises fundamental issues of intercarrier compensation which, if granted, would be extremely detrimental to rural independent telephone companies.

Rural Iowa Independent Telephone Association (“RIITA”) is a non-profit association of rural independent telephone companies, representing approximately one hundred and thirty Iowa incumbent local exchange carriers. All of RIITA’s members actually serve fewer than 15,000 access

lines, many serve fewer than 1000 lines. Most members are exempt rural telephone companies pursuant to section 251(f)(1)(A) of the Telecommunications Act of 1996. 47 U.S.C. § 251(f)(1)(A).

From the perspective of a rural telephone company, AT&T's argument is not well-connected to the reality of traffic exchange. Traffic that AT&T has sent over its switched network in the past to the rural companies has been charged access rates. These rates are designed to compensate the local, high cost rural companies for the companies' investment in the nation's telecommunications infrastructure: without payment for the investment, no one would be able to call into and out-of rural America. Under the Telecommunications Act, both predating and postdating the adoption of the 1996 Act, local public telephone utilities charge their local end-users for unlimited local exchange usage and charge interexchange carriers for their access to and from the network. AT&T now seeks to eliminate these access charges. It does not seek to eliminate them because the services provided by our local rural telephone companies are any different. Instead, it seeks to eliminate them because AT&T decides to route its long distance traffic differently within AT&T's own networks. Furthermore, AT&T cloaks its argument by referring to "above-cost" access rates without introducing one piece of evidence showing what the costs are to provide local rural telephone access.

Indeed, one of that many problems with AT&T's petition is its complaint that it has made "investments" in technology designed to assist it in the process of converting voice to VOIP and VOIP to voice traffic, as well as its investment in internet infrastructure. AT&T does not explain why its vague "investment" should be rewarded when the FCC made it clear in prior orders—as even AT&T is forced to admit on pages 12 through 15 of its petition—that phone-to-phone traffic is telecommunications and therefore subject to access charges. What is clear is that AT&T, while demanding payback for its evidently ill-advised investment, seeks to deny payment to local rural

carriers for their investment in providing high-quality telecommunications infrastructure to rural America. If AT&T's request is granted, a vital link in the communications network will no longer receive compensation from long-distance carriers that use this network.

Finally, even AT&T's "compelling reasons," for its petition, starting on page 26, lack compelling rationale. AT&T argues that IP Telephony is a tiny fraction of traffic (page 27). This is irrelevant both logically and factually to AT&T's argument. AT&T controls the decision as to how to route its traffic. It can expand its internet investment at will and clearly would do so if that meant it would be given a free ride on local exchange carriers' networks.

AT&T also argues that the service is still evolving (Page 27). Yet, this argument is no reason to avoid standard payment of access to rural networks. If internet transmission of calls is really more efficient and AT&T can maintain the quality of its transmission (both of which are unsupported assertions in the AT&T petition), then AT&T could presumably migrate over to packet internet transmissions while paying access and reap the profit of its new and efficient long distance network.

Next AT&T argues that without an access exemption for this traffic a risk of market distortion exists (Page 28). This argument is backwards. The ruling AT&T seeks ruling would turn telephone traffic on its head, with long-distance companies like AT&T making routing decisions not on quality, technology or even common sense. Instead, long-distance carriers would route calls based on what access rates it chooses not to pay or more likely, just push all telephone traffic on its packet network at some point in its transmission solely to call it "internet."

Finally, AT&T argues that "tentative distinctions" in earlier FCC rulings no longer exist (Page 29) and therefore the time has come to simply call all traffic "internet data communications." Here, of course, AT&T proves too much because congress has not yet eliminated the acts regulating

“telecommunications,” which AT&T assumes away in a few sentences. AT&T broadens the computer-to-computer exception to swallow the general rule that telecommunication involves access to local networks and compensation for that access. On a purely logical plane, if AT&T can demonstrate in fact what it asserts in theory in its petition, it still has not proven its case. It is just as logical to eliminate the data exception as it is to include phone traffic within the exception, thus requiring access on all traffic that originates and terminates in different exchanges. In other words AT&T’s entire argument is just a slide down a slippery slope. Logic supports sliding down the other side of that same slope.

A more common-sense solution would be to eliminate the exception for internet data or to maintain the status-quo while intercarrier compensation issues are reviewed in pending dockets and dismiss AT&T’s petition. RIITA requests that the FCC dismiss this petition.

Respectfully Submitted,

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